

INFORMATION ON SERVICE OF PROCESS (SUMMONS, etc.)

King County Family Law Facilitators: Instruction # S-1
Superior Court Civil Rule 4 and Revised Code of Washington 4.28.080-110

*Service of “**process**” (the documents with which legal actions are commenced; typically the **Summons**, or **Summons and Petition**, in a family law action) is a critical part of the legal action. Service is required to give the opposing party notice that you have filed a legal action and to give the opposing party an opportunity to respond. Unless the opposing party has joined in your petition by either signing and filing a Joinder form, or signing the Joinder section of the Petition, you must file the appropriate document with the Court Clerk proving that the opposing party was served. **Failure to provide valid proof of service or joinder will prevent you from finalizing your court action.** If the opposing party has joined in your petition, you do not need to serve him or her with “process”.*

Service by means other than those described in these instructions may be required or allowed for commencement of certain actions (for instance, actions for modification of child support). Please refer to instructions for the type of action you are commencing, or consult with an attorney, for further information on any special provisions regarding service relating specifically to that type of action.

Information on service of other pleadings and papers after obtaining proper service of process on the opposing party is contained in Facilitator Instruction # S-2, as well as in instructions for certain specific legal actions.

PERSONAL SERVICE OF PROCESS

**FOLLOW THE INSTRUCTIONS BELOW FOR THE CIRCUMSTANCES
WHICH APPLY TO YOUR PARTICULAR SITUATION**

1. If the opposing party will agree to accept the papers directly from you (and there is not a restraining order in effect restricting your contact with the opposing party): Service of process by one party to the action directly on another party to the action (for instance, by the Petitioner on the Respondent) is **not valid** unless the party being served agrees, **and** signs an “Acceptance of Service” form (WPF DRPSCU 01.0310).

On an Acceptance of Service form you should fill in the case caption (names of the petitioner and opposing party, upper left of form) and case number (next to “NO.”, upper right of form), and in Paragraph 1 check the boxes and complete as appropriate, indicating by complete title **all** documents the opposing party is accepting service of.

The opposing party should complete Paragraph 2 if he or she wishes, **must sign** and fill in the date signed, and should also print his or her name and fill in his or her address, where indicated. You should then make a copy of the original, signed, Acceptance of Service and file the original with the Court Clerk, retaining the copy for your records.

2. If the opposing party will not accept service of the papers as set forth above:

You must arrange for someone besides yourself, over the age of 18, to serve the documents on the opposing party. **You cannot serve the documents yourself.** The King County Sheriff's Office will serve the opposing party for a fee. The Sheriff's Office can also serve documents on the opposing party if he or she is in jail. If the opposing party lives outside King County, you can call the sheriff's office in the county in which the opposing party resides. You can also look in the yellow pages under "Process Servers." These process servers will also charge a fee. Another option is to have a friend or family member, over the age of 18, serve the opposing party (as long as the Server is not a party to the action). The papers should be handed by the Server to the opposing party **wherever the opposing party can be found**. If the Server goes to the opposing party's home (usual residence) and the opposing party is not there, the papers may be left with any other person of "**suitable age and discretion**" (someone who is old enough and mentally able to understand that they are receiving legal papers, and who will be likely to give them to the opposing party; usually must be at least a teenager) **who resides at the opposing party's usual residence**. If possible, the Server should get the name, and/or make note of a description, of the person with whom he or she is leaving the documents, in the event a dispute arises as to whether proper service was made.

To prove that proper service was made, the Server must sign a "Return of Service" form (WPF DRPSCU 01.0250). If you have the papers served by the Sheriff or a professional process Server, they will typically complete and sign their own Return of Service or Affidavit of Service form, and either file the original, or provide it to you for filing.

If you have a friend or relative serve the papers, you will need to provide the Return of Service form. On the Return of Service form, you should fill in the case caption (names of the petitioner and opposing party, upper left of form) and case number (next to "NO.", upper right of form).

In Paragraph 2, fill in the name of the opposing party, and the Server must list the titles of **all** documents served on the opposing party by checking the appropriate boxes by listed forms, and writing in the titles of any of the forms which were served, but are not listed.

In Paragraph 3, the Server must indicate the date of service, the time of service, and the actual address where the documents were served.

In Paragraph 4, the Server must indicate who was served. The Server should check the first box if the papers were actually given directly to the opposing party. The Server

should check the second box, and fill in the name of the person the papers were actually given to, if they were served on someone other than the opposing party at the opposing party's usual residence.

The Server must then indicate the place (city and state) and date the Server is signing the Return of Service, and sign and print their name, where indicated. You should then make a copy of the original, signed, Return of Service, and file the original with the Court Clerk, retaining the copy for your records.

If personal service is made outside the state of Washington, you must also file a "Declaration Regarding Personal Service Outside the State of Washington" (WPF DRPSCU 01.0180), explaining why personal service cannot be made in-state. Failure to file this form invalidates service. File the original with the Clerk and keep a copy for your records.

3. If the opposing party "cannot with reasonable diligence" (a real, honest, effort must have been made) be served as described in Paragraph 2, above: You may serve the opposing party by having someone besides yourself, over the age of 18, leave a copy at the opposing party's "usual mailing address" with a person of suitable age and discretion (someone who is old enough and mentally able to understand that they are receiving legal papers, and who will be likely to give them to the opposing party; usually must be at least a teenager) who is a resident, proprietor, or agent thereof, **and thereafter mailing a copy by first class mail, postage prepaid**, to the...[opposing party]...at his or her usual mailing address." For these purposes, "usual mailing address" does **NOT** include a United States postal service post office box or the opposing party's place of employment. The service is not considered complete until 10 days after the Server has mailed the documents to the opposing party by first class mail.

To prove that proper service was made, the Server must sign a "[Return of Service](#)" form (WPF DRPSCU 01.0250). On the Return of Service form, you should fill in the case caption (names of the petitioner and opposing party, upper left of form) and case number (next to "NO.", upper right of form). In Paragraph 2, fill in the name of the opposing party. The Server must list the titles of **all** documents served on the opposing party. In Paragraph 3, the Server must indicate the date of personal service on the resident, proprietor or agent of the opposing party's usual mailing address, the time of service, and the address where the documents were served, which must be the opposing party's usual mailing address. In Paragraph 4, the Server should check the second box, and fill in the name of the person who was actually, physically, served (the person served must be the resident, proprietor or agent of opposing party's mailing address). The words "at the opposing party's usual abode" should be stricken through, and the following inserted: "who is the [indicate whether the person is a resident, the proprietor, or the agent of the opposing party's usual mailing address]". In Paragraph 5, "Other:", the Server should insert the following: "On [insert date of mailing] I mailed to the opposing party by first class mail, postage pre-paid, at the address listed in Paragraph 3, above, a copy of all documents listed in Paragraph 2, above." The Server must then indicate the place (city and state) and date the Server is signing the Return

of Service, and sign and print their name, where indicated. You should then make a copy of the original, signed, Return of Service, and file the original with the Court Clerk, retaining the copy for your records.

SERVICE OF PROCESS BY MAIL OR PUBLICATION

You cannot obtain valid service of process by mail or publication without first obtaining a Court Order authorizing service by mail, and the requirements for service by mail or publication must be strictly followed. You cannot mail the documents to the opposing party yourself. For detailed instructions on how to have the opposing party served with process by mail, see Facilitator Instruction # S-3, or by publication #S-4 You can ask the Court permission to have the opposing party served by mail on the same day you file your other documents with the Clerk's office.

If you do not know where the opposing party lives, the law requires you to make an honest, diligent and reasonable effort to locate the opposing party. **You must describe in detail what efforts you made to find the person in your request to the Court.** Such efforts may include checking a phone book or reverse directory where the person last stayed, calling directory assistance, checking internet resources and talking with the opposing party's friends, relatives, neighbors, co-workers, and employers. You should provide the Court with the names of the people you talk to. You may also ask the post office to do a postal trace.

If you cannot find the opposing party, but know the address of a relative or friend that the opposing party sees regularly, the Court may give you permission to have the documents mailed (**by someone other than yourself**) to the opposing party at the relative's or friend's address and/or at the opposing party's last known address.

The Court may also give you permission to have the opposing party served by mail if the opposing party lives out of state or if you cannot afford to have him or her served in person. In order to obtain permission to have the opposing party served by mail, the service must be just as likely to notify the opposing party as service by publication would. Because service by publication can be very expensive, if there is any family member who has regular contact with the opposing party, you should serve by mail (see above).

WARNING: These instructions are not a substitute for legal advice. The laws and court rules are complex and following these instructions will not guarantee you a favorable result. It is always advisable to talk to a lawyer about your problem before filing your action. (You may be able to hire a lawyer for a small fee to review your completed forms and talk about your problem but not represent you in court). If you need a lawyer, contact the Family Law Facilitators' Office for their *Legal Resource List* or call the King County Bar Association.